

### **REMARKS/ARGUMENTS**

Applicants would like to thank the Examiner for the careful consideration given the present application.

Claims 2, 3, 4, 5/2, 5/3, 5/4/3, 6/2, 6/3, 6/4/3, 7/6/2, 7/6/3, 7/6/4/3, 8/7/6/2, 8/7/6/3, 8/7/6/4/3, 9/8/7/6/2, 9/8/7/6/3, 9/8/7/6/4/3, 10/9/8/7/6/2, 10/9/8/7/6/3, 10/9/8/7/6/4/3, 12/2, 12/3, 12/4/3, 13/2, 13/3 and 13/4/3 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Kramer (U.S. Patent No. 6,658,027) in view of Hatono et al. (U.S. Patent No. 5,914,936). For at least the following reasons, the Examiner's rejection is respectfully traversed.

There is no suggestion or motivation for one skilled in the art at the time the invention was made to combine Hatono with Kramer to arrive at the claimed invention. The mere fact that the references can be combined does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination.

Kramer discloses a receiver that receives packets transmitted over a data network. The Kramer receiver contains a jitter buffer, which stores frames as they are received from the network. In Kramer, the jitter buffer is managed using high and low thresholds. There is no suggestion or motivation in Kramer of using a timing method with the jitter buffer thresholds.

Hatono discloses an ATM exchange with a threshold comparing circuit for comparing cell queue length in a buffer of the exchange and a timer counter which starts counting when the queue length exceeds the threshold. In Hatono, the buffer and timer counter are only contained in the ATM exchange network. There is no suggest or motivation in Hatono of the buffer and timer counter being located in the destination terminal 201-R.

Therefore, there is no suggestion or motivation to use the Hatono buffer and timer counter elements to modify the Kramer buffer to arrive at the claimed invention. The desirability of such a modification is found only in Applicants' own description of the invention, in contrast to the

requirement that the teaching or suggestion to make the modification must be found in the prior art, and not based on an Applicant's disclosure. Reconsideration and withdrawal of the rejection based upon the combination of references is respectfully requested.

With regard to claim 3, none of the references disclose or suggest “a reception packet counter for counting a total number of real-time information packets by said packet receiving unit after a communication is commenced” as recited in claim 3. The Office Action refers to Kramer in col. 7, lines 50–63, as disclosing “packet number judging means for measuring a total number of packets stored in said jitter absorbing buffer after a communication is commenced...” (Office Action 12/07/2005, page 5).

Kramer discloses an IP depacketizer interface 110 that receives the IP packets from the IP network 50 and includes a depacketizer for deconstructing the packets into their component frames, which are then stored in a jitter buffer 120 (col. 3, lines 53–61). In Kramer, a processor determines whether a jitter buffer 120 is full (col. 7, lines 61–63), but the Kramer does not teach counting the number of packets received by the packetizer 110. Therefore, Kramer fails to disclose or suggest a reception packet counter for counting a total number of real-time information packets received by the packet receiving unit after a communication is commenced.

Hatono does not overcome the deficiencies of the Kramer patent. Hatono does not disclose or suggest counting the number of packets received by a packet receiving unit after a communication is commenced. Therefore, Hatono also fails to disclose or suggest such a reception packet counter. Thus, even if combined, the references do not disclose or suggest all the elements of the claimed invention.

Further with regards to claim 3, none of the references disclose or suggest “comparing means for comparing said total packet number counted by said reception packet counter with a

predetermined threshold value...at a time instant when a predetermined time period has elapsed after the communication has been commenced” as recited in claim 3.

The Office Action refers to Hatono in col. 10, lines 30–42, and col. 4, lines 3–16, as “teaching the use of a timer and an elapse time period in determining the seriousness of data congestion at a buffer” (Office Action, 12/07/2005, pages 5–6). However, the Office Action does not refer to the elements in Hatono that disclose comparing means for comparing *a total packet number counted by a reception packet counter* with a predetermined threshold value.

In Hatono, a timer is activated to start counting when the queue lengths of cells in the buffer queue exceed the first threshold (col. 4, lines 3–9). Hatono judges the seriousness of the congestion by a length of elapsed time from the occurrence of the time-out (col. 4, line 10–16).


Although Hatono judges congestion, Hatono fails to disclose or suggest that the total number of packets counted by a reception packet counter is compared with a threshold value. Hatono also fails to disclose or suggest that such a comparison is at a time instant when a predetermined time period has elapsed. Thus, Hatono fails to disclose or suggest comparing means for comparing the total packet number counted by a reception packet counter with a predetermined threshold value at a time instant when a predetermined timer period has elapsed. Thus, even if combined, the references do not disclose or suggest all the elements of the claimed invention.

In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

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Reply to Office Action dated December 8, 2005

If there are any additional fees resulting from this communication, please charge same  
to our Deposit Account No. 16-0820, our Order No. 33871.

Respectfully submitted,  
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